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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,076	02/03/2004	Joseph M. Asher	075234.0103	1945

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EXAMINER
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LEIVA, FRANK M

ART UNIT	PAPER NUMBER
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3714

MAIL DATE	DELIVERY MODE
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01/30/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/771,076	Applicant(s) ASHER ET AL.	
	Examiner Frank M. Leiva	Art Unit 3714	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-23,26-28,31-33,35-47 and 49-79 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-23, 26-28, 31-33, 35-47, and 49-79 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/03/2008</u>                                                | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 14 November 2007 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 75 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The term "event classes" and "group of classes" are not disclosed in the specification, also from the original disclosure the description of "event classes" in new claim 75 is already described in claim 50 as "event types". For the purpose of examination the examiner will treat this term as "event types" as so disclosed in claim 50.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1-2, 4-17, 22-23, 26-28, 31-33, 35-39, 44-47, 49, 52-53, 56, 59-77 and 79 are rejected under 35 U.S.C. 102(b) as being anticipated by Vlazny et al (US 2005/0116410 A1).**

6. **Regarding claims 1, 23, 56 and 59; Vlazny discloses:**

A method comprising the steps of: at a computer processor, receiving a plurality of bets, each bet comprising: a selection of a first number of events selected from a group of events, (races from a track); a selection of a respective participant for each of the first number of events selected, (a horse in each race); and a bet amount, (fig. 2 and 8-9), wherein fig. 8 shows the betting cluster for the purchase.

Wherein at least one selected event of a first bet of the plurality of bets comprises a different event from at least one selected event of a second bet of the plurality of bets, it is inherent for the bets to be different, otherwise it would be considered doubling the original bet.

Combining the amounts of the bets of the plurality each bet amount to form a betting pool, (fig. 9), wherein "select pool" explicitly expresses the availability of betting pools to choose the bet from, well-known pari-mutuel system.

At a computer processor, determining an amount of a payout for winning bets of the plurality based at least in part on the amount of the bets in the betting pool, (¶[0060]), a computer processor programmed to calculate and display odds and payout information.

7. **Regarding claims 2, 45, 53 and 60;** Vlazny discloses the steps of: receiving results of the group of events, the results identifying a winning participant for each event of the group of events; and determining one or more winning bets of the plurality of bets based at least in part on the results, (§[0004]), wherein the pari-mutuel system applies the result of the races and affects the amount of winning according to the betting pool amounts and the amount of winners for that pool.

8. **Regarding claims 4, 26 and 61;** Vlazny discloses: wherein a rule for determining a payout to a bet of the plurality of bets comprises a winning bet is based at least in part on whether at least some of the selected respective participants correspond to a winning participant for each of the first number of events selected and the bet of the plurality of bets includes a winning participant of a specified event, (§[0004]), to add what was explained above, it is well-known for parlay tickets to win, all participants selected must win, then the amount of payout is determined by dividing a portion of the pool by the number of winning tickets of that pool.

9. **Regarding claims 5, 27 and 62;** Vlazny discloses wherein a rule for determining a payout to a bet of the plurality of bets comprises a winning bet is based at least in part on whether at least some of the selected respective participants correspond to a winning participant for each of the first number of events selected and the bet amount is at least as high as a specified amount, (§[0008]), well-known "Pick 6" bet consists of selecting 6 consecutive race winners, and payoff consists of a big jackpot for 6 out of 6 or a lesser amount for 5 out of 6.

10. **Regarding claims 6, 28 and 63;** Vlazny discloses wherein a rule for determining a payout to a bet of the plurality of bets comprises a winning bet is based at least in part on whether at least some of the selected respective participants correspond to a winning participant for each of the first number of events selected and the selected respective

participants of the bet comprise participants having specified odds, ( $\mathbb{I}[0004]$ ), the payoff odds are determined by the amount of money wagered.

11. **Regarding claims 7 and 64;** Vlazny discloses the step of increasing a payout for a first winning bet of the one or more winning bets relative to a pari-mutuel payout for the winning participant of the event of the first winning bet, the increase being based at least in part on the relative odds among the winning participants of the winning bets in the pool determining an amount to be paid for each winning bet based on the number of winning bets and the amount of the total payout, ( $\mathbb{I}[0004]$ ), the payoff odds are determined by the amount of money wagered, that number can decrease or increase according to the total amount of bets in the pool.

12. **Regarding claims 8 and 65;** Vlazny discloses the step of increasing a payout for a first winning bet of the one or more winning bets relative to a pari-mutuel payout for the winning participant of the event of the first winning bet, the increase being based at least in part on the relative amount bet on the events in the pool wherein determining an amount to be paid for each winning bet is further based on the bet amount of each winning bet, (see claim 7).

13. **Regarding claims 9, 31 and 69;** Vlazny discloses wherein determining an amount to be paid for each winning bet is further based on the odds of the selected respective participants of each winning bet, ( $\mathbb{I}[0004]$ ), the award is calculated using the payoff odds for each participant.

14. **Regarding claims 10, 32, 47 and 66;** Vlazny discloses the step of increasing a payout for a first winning bet of the one or more winning bets relative to a pari-mutuel payout for only the bets on the same event as the first winning bet based at least in part on the first winning bet's selected respective participants for each of the first number of events selected each had specified odds, (see claim 7).

15. **Regarding claims 11, 33 and 46;** Vlazny discloses the step of increasing a payout for a first winning bet of the one or more winning bets relative to a pari-mutuel payout for the winning participant of the event of the first winning bet, the increase being based at least in part on selection of the first winning bets' event for a bonus, selection being known to bettors while bets are received increasing a payout for a first winning bet of the one or more winning bets if at least one of the first winning bet's selected events comprises a specified event, (see claim 7), and include "teaser" bets well-known in the art.

16. **Regarding claim 12;** Vlazny discloses the step of increasing a payout for a first winning bet of the one or more winning bets relative to a pari-mutuel payout for the winning participant of the event of the first winning bet, the increase being based at least in part selection of the first winning bets' event for a bonus, selection occurring after bets are received wherein determining an amount of a total payout based at least in part on the betting pool comprises applying a commission rate to the betting pool, (see claim 11), and well-known to take 15%-20% of the total pool for the house as a commission before calculating the payoff odds.

17. **Regarding claims 13, 35 and 70;** Vlazny discloses wherein determining an amount of a total payout based at least in part on the betting pool comprises adding to the betting pool a carryover amount from a previous betting pool, (([0020])).

18. **Regarding claims 14, 36 and 71;** Vlazny discloses comprising the steps of: receiving results of the group of events, the results identifying a winning participant for each event of the group of events; determining whether there are any winning bets based at least in part on determining for each of the plurality of bets if each selected respective participant corresponds to the winning participant for each of the first number of events selected in the bet; and determining a carryover amount to carry over to a future total payout if there are no winning bets, (([0004])), wherein the pari-mutuel system applies the

result of the races and affects the amount of winning according to the betting pool amounts and the amount of winners for that pool, (¶[0020]), and the carryover amount calculated and displayed for each event prior to race to attract bettors.

19. **Regarding claims 15, 37 and 72;** Vlazny discloses canceling at least one event of the group of events; receiving results of the group of events, the results identifying a winning participant for at least one event of the group of events; and determining one or more winning bets by determining for each of the plurality of bets if at least one of the selected respective participants corresponds to the winning participant for at least one of the first number of events selected in the bet, (¶[0118]), wherein the invention discloses rules for scratches and the cancellation of bets.

20. **Regarding claims 16, 38, 49 and 73;** Vlazny discloses wherein the first number of events comprise horse racing events held at different tracks, (fig. 8), shows the "bet cluster" and above signaling to choose a track and race, meaning that the track can be different from previous.

21. **Regarding claims 17, 39 and 74;** Vlazny discloses wherein the first number of events comprise events held on different days, (fig. 8), shows the "bet cluster" and above signaling to choose a track and race, non specifying a date, and is well-known to parlay races that are on different days, such is the triple crown championship.

22. **Regarding claims 22, 44, 52 and 79;** Vlazny discloses stipulating an adjustment parameter that provides a bonus to the plurality of bets upon satisfaction of the adjustment parameter, (fig. 26), carryover Jackpots adjust the pay by adding a bonus pay.

23. **Regarding claims 67 and 68;** Vlazny discloses increasing a payout for a first winning bet of the one or more winning bets relative to a pari-mutuel payout for the winning outcome of the event of the first winning bet, the increase being based at least in part on



selection of the first winning bets' event for a bonus, selection being known to bettors while bets are received; and occurring after bets are received, (fig. 26 and ¶[0113]), discloses the use of carryover monies used to create bonus payout to specific parlays, known in advance by the players so as to entice the players, also hidden jackpots that randomly show after the bets are made are well-known.

***Claim Rejections - 35 USC § 103***

24. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

25. **Claims 18-21, 40-43, 50-51, 54-55, 57-58 and 78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vlazny as applied to claims 1, 23, 56 and 59 above, and further in view of "TAB New Zealand's Betting Agency (October 4<sup>th</sup> 2003 disclosure)", hereinafter TAB.**

26. **Regarding claims 18-20, 40-42, 50 and 75-77;** TAB discloses wherein the first number of events comprise two or more events selected from events from the group consisting of one or more horse racing, dog racing, basketball, football, baseball, hockey, soccer, jai-alai, golf, boxing, rugby, cricket, auto racing, bicycle racing, tennis, Olympic or other sporting events; wherein the first number of events comprise at least one horse racing event and at least one football event; and wherein the first number of events comprise at least one football event and at least one basketball event, (page 1:"New Multi

Betting on Sports”), as disclosed you can choose from a multitude of sporting events and combined them into a single bet.

27. **Regarding claims 21, 43, 51, 54-55, 57-58 and 78;** TAB discloses wherein the first number of events comprise:

a first event selected from events from the group consisting of comprising a horse racing, dog racing, basketball, football, baseball, hockey, soccer, jai-alai, golf, boxing, rugby, cricket, auto racing, bicycle racing, tennis, Olympic, political or entertainment event; and a second event selected from events from the group consisting of comprising a horse racing, dog racing, basketball, football, baseball, hockey, soccer, jai-alai, golf, boxing, rugby, cricket, auto racing, bicycle racing, tennis, Olympic, political or entertainment event; and wherein the first event and the second event comprise different types of events, (page 1), as is obvious from page 1 of TAB, the first second or third selections is selected by the available game list and can be of any sport.

### ***Response to Arguments***

28. Applicant's arguments with respect to claims 1, 2, 4-23, 26-28, 31-33, 35-47, and 49-79 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank M. Leiva whose telephone number is (571) 272-2460. The examiner can normally be reached on M-Th 9:30am - 5:pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FML

01/27/2008



Robert E. Pezzuto

Supervisory Patent Examiner

Art Unit 3714